

02-0-1979

AN ORDINANCE

02-0-_____

BY *Cesar C. Mitchell*

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS IN THE LAWSUIT STYLED: JERRY S. HORNSBY, JR. V. OFFICER JOHNNY F. HALL, FILED IN THE UNITED STATES DISTRICT COURT, FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, CIVIL ACTION FILE NO. 1:99-CV-2629-CAP, IN THE AGGREGATE AMOUNT OF \$10,956.70; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISBURSE THE AMOUNT of \$5,000.00; WAIVING CITY OF ATLANTA CODE OF ORDINANCES SECTION 2-783(h) FOR THIS INSTANCE ONLY; AND FOR OTHER PURPOSES.

WHEREAS, on October 8, 1999, Plaintiff Jerry S. Hornsby, Jr., initiated the lawsuit styled: Jerry S. Hornsby, Jr. v. the City of Atlanta, Officer Johnny F. Hall, individually and as a police officer for the City of Atlanta, Sergeant Norman B. Davis, Senior Patrol Officer, Paul A. Vignola, Officer Derrick Buckles, Officer Curtis Davenport, Investigator Carolyn Dean, Investigator David A. Tripp, Officer J.C. Guyton, Investigator Pamela Boyd and Lieutenant Orr of the S.O.S. Unit, each individually and as police officers for the City of Atlanta; and Beverly J. Harvard, individually and as Chief of Police for the City of Atlanta, pursuant to 42 U.S.C. §§1983, 1986, and 1988 *et seq.* and the Fourth and Fourteenth Amendments; and

WHEREAS, on October 10, 1997, Officer Hall and other named officers were working a "reversal" sting operation in order to catch individuals who seek to purchase illegal drugs; and

WHEREAS, Plaintiff Jerry S. Hornsby drove his pick-up truck into the parking lot where the reversal was taking place; and

WHEREAS, Plaintiff had a discussion about marijuana with undercover police officer J.C. Guyton; and

WHEREAS, Plaintiff did not purchase marijuana, however Officer Hall and other officers were directed to stop and arrest Plaintiff; and

WHEREAS, Officer Hall positioned his motorcycle in front of Plaintiff's pick-up truck; and

WHEREAS, while apprehending Plaintiff, Jerry S. Hornsby, Jr., Officer Hall discharged his service revolver as he fell over on his motorcycle; and



WHEREAS, the bullet struck and passed through the driver's side window and injured Plaintiff; and

WHEREAS, Plaintiff filed a lawsuit seeking one million dollars (\$1,000,000.00) in compensatory damages, two million dollars (\$2,000,000.00) in punitive damages, costs, reasonable expenses and attorney's fees; and

WHEREAS, by order dated June 28, 2002, the Honorable Charles A. Pannell of the United States District Court, Northern District of Georgia, Atlanta Division, granted the Defendants' Motion for Summary Judgment relating to the City of Atlanta and all named City of Atlanta Police Officers with the exception of Officer Johnny F. Hall; and

WHEREAS, as a result of this order, the legal issues to be tried are whether Officer Hall used excessive force in shooting Plaintiff in violation of his Fourth Amendment rights, whether Officer Hall is entitled to qualified immunity, and whether Officer Hall is entitled to discretionary immunity on Plaintiff's state law claims of emotional distress, assault and battery; and

WHEREAS, Plaintiff by and through his attorney has agreed to settle all claims against Officer Johnny F. Hall for the sum of ten thousand, nine hundred and fifty-six dollars and 70 cents (\$10, 956.70), inclusive of the waiver of a \$5,000 judgment against Plaintiff's counsel for failure to respond to Defendants' discovery requests and waiver of a Bill of Costs filed by counsel for Defendants on July 10, 2002, in the amount of nine hundred and fifty-six dollars and 70 cents (\$956.70); and

WHEREAS, the City Attorney considers it to be in the best interests of the City to resolve this matter and recommends that the City pay the amount of five thousand dollars (\$5,000) to Plaintiff to settle all claims of Plaintiff against the City arising out of the facts alleged in the lawsuit;

WHEREAS, the Defendants admit no liability;

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES AS FOLLOWS:

SECTION 1: The City Attorney is authorized to settle the case of Jerry S. Hornsby, Jr. v. Officer Johnny F. Hall, United States District Court, Northern District of Georgia, Atlanta Division, Civil Action File No. 1:99-CV-2629 for the aggregate amount of ten thousand, nine hundred and fifty-six dollars and 70 cents (\$10, 956.70).



SECTION 2:

The Chief Financial Officer is authorized to pay a total sum of five thousand dollars (\$5,000) to Jerry S. Hornsby, Jr., at the direction of the City Attorney from the account of 1A01 529017 T31001. Payment shall be in the form of a check payable to Plaintiff Jerry S. Hornsby, Jr. and attorney Daniel L. Henderson, Esq.

SECTION 3:

To the extent that Section 2-783(h) of the Code of Ordinances of the City of Atlanta is in conflict herewith, that subsection is waived for this instance only.

A true copy,

A handwritten signature in black ink, appearing to be "K. L. M.", written over the text "A true copy," and "Deputy Clerk".

Deputy Clerk

ADOPTED by the Council
APPROVED by the Mayor

NOV 18, 2002
NOV 26, 2002

RCS# 4225
11/18/02
2:59 PM

Atlanta City Council

Regular Session

CONSENT I Pgs. 1-9; Except 02-R-1982; 02-O-1882;

ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 0

NV Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
NV Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	NV Woolard

CONSENT I

11/18/02 Council Meeting	
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED
AGENDA	ON CONSENT AGENDA
1. 02-O-1774	31. 02-R-1937
2. 02-O-1972	32. 02-R-1938
3. 02-O-1297	33. 02-R-1939
4. 02-O-1859	34. 02-R-1940
5. 02-O-1860	35. 02-R-1941
6. 02-O-1861	36. 02-R-1942
7. 02-O-1974	37. 02-R-1943
8. 02-O-1979	38. 02-R-1944
9. 02-O-1902	39. 02-R-1945
10. 02-O-1962	40. 02-R-1946
11. 02-O-1971	41. 02-R-1947
12. 02-O-1863	42. 02-R-1948
13. 02-O-1864	43. 02-R-1949
14. 02-R-1924	44. 02-R-1950
15. 02-R-1952	
16. 02-R-1966	
17. 02-R-1996	
18. 02-R-2000	
19. 02-R-1951	
20. 02-R-1954	
21. 02-R-1978	
22. 02-R-1983	
23. 02-R-1984	
24. 02-R-1856	
25. 02-R-1931	
26. 02-R-1932	
27. 02-R-1933	
28. 02-R-1934	
29. 02-R-1935	
30. 02-R-1936	
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Consent I Vote: 13 Yeas; 0 Nays (See RCS #4225)	
Items Removed from Consent: 02-R-1982; 02-R-1882	

02-0-1979

(Do Not Write Above This Line)

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Approved
Roderic Ruben Kuehl
Deputy City Attorney

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☐ PERSONAL PAPER REFER

Date Referred 11/4/02
Referred To: Public Safety
Date Referred
Referred To:
Date Referred
Referred To:
Referred To:

First Reading

Committee _____
Date _____
Chair _____
Referred To _____

P&A Committee

11/13/02
Chair

Action
Fav, Adv, Hold (see rev. side)
Other

Members

Hall
Calle Smith
Dunlap

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

ADOPTED BY

NOV 18 2002

COUNCIL

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

CERTIFIED

- FINAL COUNCIL ACTION
- ☐ 2nd
 - ☐ 1st & 2nd
 - ☐ 3rd
 - ☐ Consent
 - ☐ V Vote
 - ☐ RC Vote

NOV 18 2002

CERTIFIED
NOV 18 2002
Roderic Ruben Kuehl
MUNICIPAL CLERK

MAYOR'S ACTION

NOV 26 2002
Marilyn Frank